

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: CAPITAL ONE CONSUMER
DATA SECURITY BREACH LITIGATION**

MDL No. 2915

ORDER DENYING TRANSFER

Before the Panel: Defendant Capital One, N.A., successor-by-merger to Capital One Bank (USA), N.A. (Capital One) moves under 28 U.S.C. § 1407 for transfer of the action listed on Schedule A (*Aguirre*) to MDL No. 2915. Plaintiffs oppose transfer.

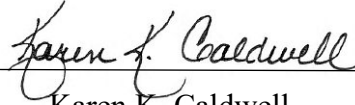
After considering the argument of counsel, we deny the motion for transfer. MDL No. 2915 arises out of a data security incident in which an individual gained unauthorized access to the personal information, maintained on cloud-based systems, of more than 100 million Capital One credit card customers and individuals who applied for Capital One credit card products. On September 13, 2022, after a hearing, the court granted final approval of a class-wide settlement of the claims in MDL No. 2915, and subsequently closed the docket. Plaintiffs in *Aguirre* are opt-out claimants who allege that their personal information was compromised in the Capital One data breach and, as a result, their information has been disclosed to unauthorized third parties who intend to fraudulently use their information. The action thus shares common factual and legal issues with the actions in MDL No. 2915.

We nevertheless find that MDL No. 2915 has reached the point where the benefits are outweighed by the effects of transferring new cases to this mature litigation. Based on our review of the progress of this litigation, we conclude that inclusion of this action and any future actions in MDL No. 2915 is no longer necessary to achieve the just and efficient conduct of the litigation. *See* 28 U.S.C. § 1407(a). As we have previously observed, “multidistrict litigation is not static.” *In re Bridgestone/Firestone, Inc., Tires Prods. Liab. Litig.*, 659 F. Supp. 2d 1371, 1372 (J.P.M.L. 2009). The relative merits of transferring new tag-along actions to an MDL can change over time as the transferee court completes its primary tasks, and at a certain point the “benefits of transfer should not be assumed to continue.” *Id.* Here, the class-wide litigation has been resolved by settlement. We find that these opt-out claims can be more efficiently resolved in their home court.

IT IS THEREFORE ORDERED that the motion for transfer of the action listed on Schedule A is DENIED.

- 2 -

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Karen K. Caldwell", is positioned above a horizontal line.

Karen K. Caldwell
Chair

Nathaniel M. Gorton
David C. Norton
Dale A. Kimball

Matthew F. Kennelly
Roger T. Benitez
Madeline Cox Arleo

**IN RE: CAPITAL ONE CONSUMER
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SCHEDULE A

Central District of California

AGUIRRE, ET AL. v. CAPITAL ONE BANK USA N.A., ET AL.,
C.A. No. 8:23-00128